



Stop Animal Exploitation Now!

S.A.E.N.
"a force for change"

**1081-B St. Rt. 28 PMB 280
Milford, Ohio 45150
513-575-5517
www.saenonline.org**

Senator Saxby Chambliss, Chair,
Senate Committee on Agriculture, Nutrition and Forestry
416 Russell Senate Office Building
Washington, DC 20510

1/17/05

Senator Chambliss,

I am contacting you today as a result of information which has been given to us by a current employee of the USDA. Mr. Richard Botelho Jr., who has filed a whistleblower complaint with the U.S. government Office of Special Council against USDA/APHIS/AC. In his complaint of 1/5/05 Mr. Botelho makes a substantial number of allegations including: **“ . . . multiple violations of federal regulations and law, gross mismanagement and waste of funds at Animal Care's eastern regional office in Raleigh, NC.”**

Mr. Botelho's complaint discusses the non-enforcement of the Animal Welfare Act several times in his letter:

“Repeat violators of the AWA are seldom given warnings. When legal action is taken against violators, only a fraction of the proposed fine is given by a stipulation agreement. The licensee does not have to admit to the history of repeated violations when they accept a stipulation agreement. Even when the investigation shows the licensee has repeatedly violated the AWA, which affected the health and welfare of the animals and/or public, Animal Care issues a warning or small stipulation. Facilities often accept these stipulations and continue to violate the AWA minimum standards and regulations year after year, stating it's just the cost of doing business.”

And:

“Inspectors request warning letters and investigations for repeat violators of the AWA from Animal Care management, only to never receive such requests and without any reply to the inspector.”

Mr. Botelho makes several allegations regarding the fiscal policies of the USDA/APHIS/AC Eastern Office as well:

“The OSC complaint states Inspectors are often approved to visit other cities and states, just to visit relatives or site see, as long as they conduct inspections in that requested territory. These visits are paid by Animal Care, the taxpayer's dollars. In most circumstances the

inspector assigned to that territory has never requested any additional help from his or her superior.”

“The whistle blower complaint states the eastern regional office of Animal Care purchases laptop computers, digital cameras, and other equipment when the current inventory is in excellent working condition. Unnecessary purchases are made before the end of the fiscal year to spend what monies are left in Animal Care's budget.”

Other serious allegations are made as well:

“The whistle blower complaint states an inspector alleges that Animal Care management gave direct orders to an inspector to expunge files which were FOIA from a federal agency due to an investigation of a human death at a research facility.”

Mr. Botelho’s complaint might be taken less seriously if it were not supported by several other sources. During 1995 the USDA Office of the Inspector General (OIG) performed an audit of the Animal & Plant Health Inspection Service with regard to enforcement of the animal Welfare act. The findings of this audit were:

“APHIS does not have the authority, under current legislation, to effectively enforce the requirements of the Animal Welfare Act. For Instance, the agency cannot terminate or refuse to renew licenses or registrations in cases where serious or repeat violations occur (such as the use of animals in unnecessary experiments, or failure to treat diseases or wounds). In addition, APHIS cannot assess monetary penalties for violations unless the violator agrees to pay them, and penalties are often so low that violators merely regard them as part of the cost of doing business.”

In 2000 Dr. Isis Johnson-Brown, another former USDA inspector made a similar statement in a news conference in Oregon regarding the conduct of the Western Regional Office of USDA/APHIS/AC:

“The research institutions I visited, including the Oregon Primate Center, were not happy to see me coming once they realized that I was going to hold them to the law. This reaction I expected. What was surprising to me was my own supervisors were disappointed and unsupportive of my efforts to simply enforce the bare minimum standards in the Code of Federal Regulations. The USDA has a good ol’ boy relationship with the research industry and the laws are nothing more than smoke and mirrors. More than once, I was instructed by a supervisor to make a personal list of violations of the law, cut that list in half, and then cut that list in half again before writing up my inspection reports. My willingness to uphold the law during my site visits at the Primate Center led to me being “retrained” several times by higher-ups in the USDA.”

My own experiences with the USDA have been similar. SAEN, the organization which I direct, recently issued a report: **Breaking the Law: Animal Care in U.S. Labs** which is available at: <http://www.all-creatures.org/saen/articles-rep-btl.html>. Our report details violations of the Animal Welfare Act by several dozen research facilities, with one of these labs racking up no less than 51 violations in a three year period. The enforcement action taken to date by the USDA has been a fine of less than \$10,000. A penalty of this size is virtually meaningless to this offender, the University of California (San Francisco) who annually receives an estimated \$160,000,000 from the National Institutes of Health (fiscal 2002) for the performance of animal research.

The fact is that many nationally-known laboratories violate federal law regularly with virtually no fear of consequences. Facilities pile up dozens of violations while the USDA/APHIS/AC does little or nothing.

In some ways this is not surprising, since the USDA apparently cannot even tell when a laboratory is lying about the number of animals in their possession. For example: Harvard reported the use of 336 primates to the USDA in 1998, but reported 1810 primates to the NIH for the same year. Similar discrepancies have occurred with Yale. Yale's 1998 animal use report literally contradicted itself. The front page of Yale's annual report to the USDA/APHIS listed experimental use of 32 primates and another 71 held for conditioning. The report attachments listed depriving 22 primates of water and depriving another 65 primates of food. Yale experimented on either 65 or 87 primates. However, a July, 1998 USDA inspection report for Yale facilities listed a total primate inventory of 198 primates, instead of the 103 Yale had reported.

The bottom line is that the USDA/APHIS/AC seems unconcerned that registered research facilities have literally lied in reports which they are required by law to file. Even this should not come as a surprise, since the USDA/APHIS/AC itself compiled a report for fiscal 2002 which was filled with errors regarding the number of primates in laboratories.

SAEN has filed repeated complaints with the USDA regarding laboratories that were clearly in violation of the Animal Welfare Act with little or no response.

In light of all of this information I strongly urge that your committee immediately convene hearings within the Senate Committee on Agriculture, Nutrition and Forestry to investigate the functioning of USDA/APHIS/AC with respect to enforcement of the Animal Welfare Act, as well as the other issues raised by Mr. Richard Botelho Jr. and Dr. Isis Johnson-Brown.

I look forward to a reply from your office in the very near future. I am sure that you see the enforcement of federal regulations and laws as a major priority and will look into this matter immediately.

Sincerely,

A handwritten signature in black ink that reads "Michael A. Budkie, A.H.T." with a stylized flourish at the end.

Michael A. Budkie, A.H.T.,
Executive Director, SAEN

CC: Full membership of the Senate Committee on Agriculture, Nutrition & Forestry
Full membership of the House Committee on Agriculture